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[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FWP/170176

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 17, 2015, under Wis. Admin. Code § HA 3.03(4) (\*This subprogram no longer exists.), to review a decision by the Brown County Human Services in regard to FoodShare benefits (FS), a hearing was held on December 09, 2015, at Green Bay, Wisconsin. The record was held open for a period of 10 days to allow petitioner's representative to submit closing argument. Petitioner's written closing argument was timely received.

The issue for determination is whether the respondent correctly denied the petitioner's FS application due to previous work program non-compliance in failing to verify employment.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Petitioner's Representative:

[REDACTED]  
Legal Action of Wisconsin, Inc.

[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: [REDACTED]  
Brown County Human Services  
Economic Support-2nd Floor  
111 N. Jefferson St.  
Green Bay, WI 54301

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs (telephonically)  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Brown County, and was an FS recipient. Petitioner applied for FS benefits in May, 2015, and was approved for benefits commencing in June, 2015.

2. The respondent contacted petitioner to verify petitioner's employer, [REDACTED], Inc., on or about July 21, 2015.
3. The respondent did not submit a written employment verification request to petitioner.
4. Petitioner's FS benefits ended Septmeber 1, 2015, at petitioner's request.
5. Petitioner was a participant in the Food Stamps Employment & Training (FSET) Program.
6. On November 9, 2015, petitioner re-applied for FS benefits. The respondent denied the application on the basis that petitioner had used 3 months of time-limited benefits without meeting a work requirement.

### DISCUSSION

Federal FoodShare law directs states to require recipients to work or participate in a Food Stamp Employment and Training Program (FSET) or a similar program. 7 CFR 273.7(a)(i). Wisconsin obtained a waiver that had made the FoodShare program's work requirements voluntary since 2008. In 2014, the state again made the work requirements mandatory. Wis. Stat. §49.79(10). Persons between 18 and 50 years old who are neither pregnant nor have children under 18 and who are mentally and physically able to work cannot receive FoodShare for more than three full months in any 36-month period unless they comply with the program's work requirements. 7 CFR § 273.24(b); Wis. Stat. § 49.79(1)(am) and (10)(a)2. To comply with these requirements, a person must work or participate in an authorized program at least 20 hours per week. 7 CFR § 273.24(a)(1).

The verification policy and rules for FSET are the same as for verifying eligibility for FS. See FSET Handbook, § 6.2.2; FS Handbook, § 3.17.1.6 and DHS Operations Memos 14-25 and 14-55. Agency requests for verification must be made in writing. Verbal requests are not acceptable. Workers are required to give the customer notice regarding required verification, when it is due to the agency, and the consequences of not verifying timely. FS Handbook, § 1.2.1.2; see also 7 CFR 273.2(c)(5).

If an individual fails to provide adequate and timely verification as requested, the agency may take negative action including termination of the individual's benefits. FS Handbook, §1.2.1.2. A notice of adverse or negative action, regarding the termination or reduction of benefits must be mailed at least 10 days before the effective date of the action. FS Handbook, § 6.3.1; see also 7 CFR 273.13.

In this case, the agency failed to follow its own policies for verification of the Petitioner's employment. While the petitioner notified the respondent of his employment at [REDACTED], Inc., the respondent failed to establish that it ever provided a written request for verification. The agency was required to follow verification policies of sending a written notice to the Petitioner advising him of the required verification, a due date for the verification and the consequences of failing to provide timely verification.

Based on the failure to follow proper verification procedures, I conclude the agency did not properly impose an FSET sanction on petitioner. This matter will be remanded for the agency to rescind the FSET sanction.

### CONCLUSIONS OF LAW

That respondent did not provide petitioner with written notice regarding required verification, when it was due to the agency, and the consequences of not verifying his employment timely; the agency sanction and denial action must be rescinded.

**NOW, THEREFORE, it is**

### ORDERED

That the matter is remanded to the respondent with instructions to: rescind the FSET sanction imposed against the petitioner's FS eligibility, and re-determine petitioner's FS eligibility based upon his FS application date of November 9, 2015. These actions shall be completed within 10 days of the date of this Decision.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 15th day of January, 2016

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\sPeter McCombs  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on January 15, 2016.

Brown County Human Services  
Division of Health Care Access and Accountability  
■@legalaction.org